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CSASPP Certification Refused, Appeal Being Considered

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20 October, 2025: Reasons for judgment on class action certification released

A long overdue ruling has finally come for the Canadian Society for the Advancement of Science in Public Policy, or CSASPP. This is the Proposed Class Action filed in Vancouver, back in January, 2021.

However, it's not what many had been hoping for, as certification was refused. Justice Crerar referred to the case as an "abuse of process".

An obvious question is why it took 2 1/2 years to issue a decision, if the defects were so clear cut. The hearings concluded in April, 2023, and it's now October, 2025. The case had been under reserve the entire time.

While the Judge seemed disinclined to issue costs over the unsuccessful certification, the Defendants are still able to request them anyway.

The status update on CSASPP's website goes into detail about issues with the decision. It's more detailed than here, and worth reading. The update concludes as follows:

"If we are to appeal the ruling, we have 30 days to do so from the date of the ruling. We have not made any decision and will continue to analyze your options. If you would like us to pursue an appeal, you can show your support in donating. As usual, we will continue to keep you apprised in the meantime."

Here are a few points to consider.

1. Justice Crerar Critical Of Several Versions Of Pleadings

> [47] To be fair to the plaintiff, ***to some extent the factual basis has evolved in real time: as more public health orders were issued, it was not wholly unreasonable for the plaintiff to amend its pleadings to particularise those new orders. Further, the evolving Covid jurisprudence rendered many of the plaintiff's legal claims and arguments untenable***. That said, many of the amendments could have been anticipated and pleaded at an early stage of the litigation. To give two critical and fundamental examples: as discussed below, the plaintiff was in a position to properly identify and define the subclasses at an early stage, and it was always ill-conceived to have the Society serve as the proposed representative plaintiff.

> [133] The plaintiff's ***constantly moving pleadings target has consumed a grossly disproportionate amount of time of the parties and the Court***: it is near-impossible to respond to or adjudicate on a pleading that is so mutable. Such constant amendments constitute in themselves an abuse of process.

The Judge would go on at length how the Notice of Civil Claim had been amended several times. He said there were 8 versions in total. However, he offers a reasonable justification for most of it: Bonnie Henry issued new health orders over time, and older ones became obsolete. As such, changes would be necessary, in order to avoid mootness becoming an issue.

Yes, it was something of a "moving target", but that was the result of a steady stream of new orders.

The case was filed in January 2021. Travel restrictions within the Province wouldn't be introduced until April, and terminate in June. Injection passes wouldn't become a reality until September or October for most people. It's difficult to litigate issues *prior* to their existence.

And if having the Society itself was such a problem, it would have been better to know that sooner. Alternatives were offered.

2. Justice Crerar Critical Of Multiple Proceedings

> [163] As a further basis for striking the claim as an abuse of process, the plaintiff Society has ***filed three proceedings against the same defendant—Dr. Bonnie Henry—each concerning various health orders***. It is an abuse of process for the plaintiff to bring this action against these defendants when it has already brought other proceedings in relation to the same subject matter (one petition of which has now been dismissed, and the other abandoned).

The Judge would cite 2 Petitions that CSASPP had filed against Bonnie Henry. One was to challenge the limit on public gatherings, and the other was the new injection mandate for health care workers. He had a point in that they did have overlapping issues.

However, these were limited challenges, and ones that couldn't wait years for the Court to act in the larger case.

And it's not as if he was efficient in handing down this ruling.

3. Justice Crerar Preferred Petition Over Claim

> [195] First, as set out above, the present claim is a ***thinly-veiled challenge to administrative decisions that would be appropriately brought as a judicial review***. In Ernst, the existence of judicial review as a more appropriate remedy to address the essence of the plaintiff's complaints weighed heavily against the continued survival of a claim based in Charter damages:

> [199] ***Declaratory relief is a more appropriate remedy than Charter damages in a case like this one that deals with broad questions of policy, public health, and medical and epidemiological judgment***. Of course, the plaintiff ***would prefer to avoid that administrative law remedy, as it appropriately requires deference to the expert decision maker entrusted by the legislature*** with those decisions, as seen in Hoogerbrug and Beaudoin, and many other Covid-related decisions.

A Petition, or Judicial Review, is a limited challenge to existing orders or decisions. Unlike a Civil Claim, this isn't meant to be broad, or to have much of an evidence gathering process. There's also no opportunity to pursue a Class Action.

Moreover, there's typically a high degree of deference given to the "expert decision makers", which often renders Petitions ineffective.

4. Justice Crerar Takes Shots At CSASPP's Lawyer

> [399] I wish to emphasise that nothing in this section should be read as casting any aspersion on the competence or ethics on plaintiff's counsel, who has proven herself to be a skilled, eloquent, and zealous advocate in court. The plaintiff's serial failures to meet court deadlines, and the ever-changing parameters of the proposed class proceeding, from proposed plaintiffs, to claims, to common issues, may well be the fault of the plaintiff Society and its principals rather than her law firm. The point is that ***a plaintiff and a law firm proposing what will be the largest and most complicated class proceeding in Canadian history must establish a commensurate degree of competence and experience***, as exhibited through impeccable prosecution of the claim, to have any hope of certification.

While designed to be tactful, this comes across as insulting. And just because a case is complicated, that's not grounds to throw it out. Such a suit would be an immense amount of work for a single lawyer, but it's not as if more couldn't be retained if certification was successful.

Of course, Bonnie Henry and the Government of British Columbia have an almost inexhaustible supply of money, courtesy of taxpayers. They are forced to contribute to the defence regardless of their views.

5. Alternative Representative Plaintiffs Were Offered

> [381] As set out above, Ms Leppky is cited as a ***representative of the religious subclass***: her religious beliefs prohibit her from getting vaccinated, thus affecting her

ability to work, and to access various locations. Ms Gauthier is cited as a ***representative of the proposed medical subclass***: her surgery was cancelled, affecting her pain, stress and ability to work. In contrast to the other two, Mr Parihar is not cited as a representative of any of the subclasses, but he presumably ***represents the vaccination subclass***: the FANCC avers that he was unable to attend certain events and locations, and was shunned due to his unvaccinated status.

In the event that the Society itself was considered unsuitable, an alternative was offered that would see 3 individuals become Representative Plaintiffs. That was refused.

Timeline Of Major Events In Case

January, 2021: The case was initially filed in January 2021 as a Proposed Class Action.

March, 2021: The B.C. Government responds to the lawsuit.

June, 2021: Plaintiffs bring their proposal for case management.

July, 2021: Defendants bring their own proposal to manage the case.

September, 2021: Notice of Civil Claim is amended.

December, 2022: Certification hearings start, but take longer than originally anticipated. They were intended to be completed over a single week.

April 2023: Certification hearings resume, taking up another week. The decision is under reserve, meaning it will be issued later. However, Justice Crerar would still make several subsequent requests for submissions based on related cases happening elsewhere.

July, 2023: Ingram, the disaster of a ruling, is brought to Justice Crerar's attention. This is the Alberta ruling that struck down orders on a technicality (Cabinet interference), but otherwise okayed them in principle.

September, 2023: Bonnie Henry's lawyer objects to CSASPP filing a Petition against the vaccine passport for health care workers, claiming the existing litigation amounts to a

duplication, and hence, abuse of process.

April, 2024: Justice Crerar sends notice that he will likely be issuing a decision on the Certification Application within a month or so. As a result, CSASPP forwards several recent rulings on related issues. But, the ruling is further delayed.

October, 2025: The Certification Application is dismissed.

Will This Ruling Be Appealed?

There's a 30 day time limit to decide, and there's no official word yet.

Justice Crerar was extremely critical of CSASPP for unnecessarily delaying the case. He then takes 2 1/2 years to hand down a ruling that should — by his own remarks — have been straightforward. The 144 page ruling is bloated, and could easily have been 30 or 40.

He seemed to imply at paragraph 14 that a Class Action would be less efficient than having Plaintiffs bring individual suits, which of course defies the wisdom of bringing one.

He dwelled about a lawsuit that Kip Warner had been involved with against Google. While minor, it was irrelevant to this case.

The Judge's preferred avenue — a Petition — wouldn't address many of the concerns raised in the Claim. Nor would there be an opportunity for any deep dive into the evidence. CSASPP also wouldn't be able to challenge the declaration of emergency, which started this in the first place.

Interestingly, this proceeding was declared to be an "abuse" of the legal system. However, Action4Canada's case, the most poorly drafted suit in B.C. history, *wasn't* ruled to be one. Neither the Supreme Court, nor the Court of Appeal called it that.

RULING ON CERTIFICATION
(1) https://www.canlii.org/en/bc/bcsc/doc/2025/2025bcsc2051/2025bcsc2051.html
(2) https://www.canlii.org/en/bc/bcsc/doc/2025/2025bcsc2051/2025bcsc2051.pdf

DOCUMENTS AVAILABLE FROM CASE

(A) CSASPP 20210126 Notice of Civil Claim

(B) CSASPP 20210321 Request for Assignment of Judge

(C) CSASPP 20210331 Response to Civil Claim

(D) CSASPP 20210531 Cease and Desist Letter to Regulators

(E) CSASPP 20210621 CSASPPs Case Plan Proposal

(F) CSASPP 20210621 Dr Bonnie Henrys availability requested

(G) CSASPP 20210731 Defendants Case Plan Proposal

(H) CSASPP 20210813 Requisition for JMC for 1 October 2021

(I) CSASPP 20210817 Demand for Particulars

(J) CSASPP 20210821 Plaintiffs Response to Demand for Particulars

(K) CSASPP 20210913 Oral Reasons for Judgment Short Leave Application Seeking Stay

(L) CSASPP 20210915 Amended Notice of Civil Claim

(M) CSASPP 20211025 Affidavit No 2 of CSASPP Executive Director

(N) CSASPP 20211028 Proceedings in Chambers Defendants Application for Further Particulars

(O) CSASPP 20221101 Affidavit No 3 of Redacted Deponent Redacted

(P) CSASPP 20221102 Dr Henry and HMTKs Application Response for Webcast Application

(Q) CSASPP 20221115 Respondents Requisition Seeking 16 Nov 2022 CPC to Be Held by MS Teams

CANADA, CANADIAN DECISIONS, EMPLOYMENT, VACCINES

One Reply to “CSASPP Certification Refused, Appeal Being Considered”

Dan

OCTOBER 24, 2025 AT 10:47 AM

At this point, the only justice will be if people like Bonnie Henry get cancer.